

TOWN of LANSING

"Home of Industry, Agriculture and Scenic Beauty"

TOWN CLERK

PO Box 186
29 Auburn Road
Lansing, NY 14882

June 3, 2019

Dear Mr. Vaughn Golden, at 74262-15105014@requests.muckrock.com:

The Town Clerk and Deputy Clerk, as the Town of Lansing's designated Records Access Officers (each, a "RAO") under FOIL have received your requests. Your requests do not identify any particular document in a manner as helps identify what you are seeking. You have requested all emails to, from, or copied to the Town Supervisor containing any number of 31 different words and 17 different phrases. While Public Officers Law § 89 (in the NYS FOIL law) can require electronic searching by the Town, a request is still improper when it: (i) fails to reasonably describe the records sought; or (ii) assumes there is a search capability or a filing system that does not exist such that the search is for needles in proverbial haystacks; or (iii) requires such a voluminous search and review process that it strains resources and is beyond the scope of reasonable taxpayer requests that FOIL is intended to address.

Your FOIL request therefore is denied, without prejudice. The reasons are as follows:

1. This request does not identify specific records or subject matter, but seeks any email records spanning over 18 months that might contain any one of approximately 31 words, comprising approximately 17 phrases. Some of these search terms, such as "gas", are so common that references to automobiles, and thousands of planning board records would likely be produced, particularly given that almost all projects have utility mapping or other requirements and every state environmental quality review act action would be indicated. Similar problems will be created by the word "Cayuga," and the search terms "cornell.edu" and "ithaca.edu" will produce innumerable records from residents, applicants, committees, and other local governmental emails, most of which will be irrelevant to the records you may be seeking.
2. Nor can this request be fulfilled by a reasonable search of a discrete database, as it requires cross-searching all databases and indices in the Town's server and archives. As noted above, this makes the search onerous as it would require the Town searching hundreds of thousands of records to find the few needles in that giant haystack of records for the few you may be seeking.
3. This request therefore also lacks specificity and requires the Town to engage in a fishing expedition among all records, and not a focused search for specific records. Upon consultation with the Town's IT manager, the ROAs have been advised that this search would take countless hours and, thereafter, each of the thousands of documents that would be responsive would have to be hand-reviewed to ensure confidential and protected information is redacted, for example, and including but not limited to, under the NYS Technology Law, NYS

Public Officers Law § 89, NYS Public Officers Law Article 6-A, HIPAA, and § 5 of Town of Lansing Local Law No. 11 of 2016 (the FOIL Local Law”).

You are respectfully referred to several controlling opinions of the Committee on Open Government, including FOIL-AO-18949, FOIL-AO-19241, and FOIL-AO-18045.

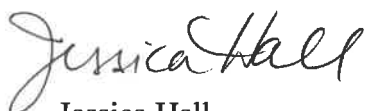
Without limiting this denial, please note this denial is considered by the Town to be a non-final determination, as the Town RAOs can assist you in narrowing your search to specific documents capable of identification and retrieval without unreasonable or Herculean efforts. FOIL envisions a cooperative process, and if you can clarify your request by specifically describing the documents you seek, including by date or a range of dates, more specific subject matter, and who specifically created (or perhaps received) such record(s), this may assist in promoting a stronger and more focused search that the Town is capable of responding to.

Alternately, on your request and at your expense the Town can hire an information technology expert to effect this search using custom software the Town does not possess. Thus, upon receipt of a more focused description of the subject matter of the records sought, the Town may be able to produce records upon a focused digital search, and thus avoid the tens of hours searching and then reviewing and redacting protected information. Such an expert would be hired immediately upon your deposit of the cost of such search, with such cost duly to be limited in accord with the requirements of the NYS Public Officers Law.

Finally, you have the right to appeal this interim denial, and you are respectfully referred to the FOIL Local Law, which is available online. Section 9 therein governs your rights of appeal and mandates that specific information about the appeal be provided. Pursuant to that FOIL Local Law, and in accord with the § 89 of the NYS Public Officers Law, all appeals are required to be filed by mail or email within 30 days of receipt the date of this denial with the Office of the Town Supervisor, 29 Auburn Road, Lansing, New York 14882.

Thank you for your time and attention to the above matters. The Town stands willing and ready to assist in providing whatever records you seek in any manner as may reasonably work, but the current request cannot be fulfilled as written.

Sincerely,

A handwritten signature in cursive script that reads "Jessica Hall".

Jessica Hall
Deputy Town Clerk, RAO